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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,082	05/22/2006	Thomas Huber	59482.21880	3687

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EXAMINER

O'HARA, BRIAN M

ART UNIT	PAPER NUMBER
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3644

NOTIFICATION DATE	DELIVERY MODE
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08/12/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@bakerlaw.com

Office Action Summary	Application No. 10/565,082	Applicant(s) HUBER ET AL.	
	Examiner Brian M. O'Hara	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 11-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/17/2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The end of Claim 20 states that: "said first end is mounted to said fuselage solely via said first support element, and said second end is mounted to said fuselage solely via said second support element". Contrary to this portion of the claims, as is shown in Fig. 7 of applicant's disclosure, and described on page 12 "fixation elements 36 such as are known and have been well tested for use in the fixation of aircraft seats" are also used to fix the transverse beams to the longitudinal beams. Therefore, the first end is not

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solely mounted to the fuselage via said first support element. Some mechanism must be used to fix the elements together.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergholz (US Patent 4,479,621 A). Bergholz discloses a cargo deck (See Fig. 2), comprising: a plurality of floor modules (12) which are decoupled from each other (See elements “12” in Figure 10), a pair of longitudinal beams (17) which are fixed to a plurality of ribs (22) which are fixed to the outer skin (16) of the aircraft; rapid closure elements (52, See Column 6 Lines 47-51) that attach to the longitudinal beams in such a way that substantially no longitudinal forces are transferred between longitudinal beams and floor modules; transverse beams (54) which connect floor modules to longitudinal beams; connecting feet (15) connected to ribs; and fixation elements (51) which are attached to an edge region (53) that does not contain bores.

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6. Claims 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Vetillard et al. (US Patent 7,475,850 B2). Vetillard et al. discloses A cargo deck (4) assembly for an aircraft having a fuselage (7), comprising: a first support element (7b); a second support element (7b on other side of aircraft, See Fig. 1, only one side is labeled); and at least one floor module (4a and 4b) comprising a transverse support element (16 + 64) and at least one cargo deck floor element (16), wherein said transverse support element spans across an interior width of said fuselage in a direction substantially perpendicular to a longitudinal direction of said aircraft (See Fig. 5), said transverse support element has a first end and a second, opposite end (See Column 7, Lines 49-51, support element span to both sides), said first end is mounted to said fuselage solely via said first support element (See Fig. 7), and said second end is mounted to said fuselage solely via said second support element wherein:

7. at least one of said first and second support elements is formed integrally with said fuselage (7b is part of the fuselage, See Column 4, Lines 35-37);

8. at least one of said first and second support elements is a beam mounted (69 and via 7b1) to said fuselage so as to extend in a longitudinal direction of said aircraft; and

9. said first support element (7b) matingly receives said first end (64) and said second support element matingly receives said second end (See Column 6, Lines 45-48).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergholz. Bergholz discloses the structure of a cargo deck for an aircraft as disclosed above, but does not disclose the material of the longitudinal beams being of the same coefficient of thermal expansion. However, Bergholz discloses that many different materials could be used and that one of ordinary skill in the art would be able to select the appropriate material for the application (See Column 8, Lines 30-44). Therefore, at the time of invention it would have been obvious to one of ordinary skill in the art to provide the longitudinal beams in a material with an appropriate and substantially corresponding coefficient of thermal expansion. The motivation for doing so would be to keep the beams from ripping the structure apart during extreme temperatures.

12. Claims 18, 19, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetillard et al. (US Patent 7,475,850 B2) in view of Bergholz. Vetillard et al. discloses an aircraft comprising: a fuselage (7) having an outer skin (7c); a cargo deck (4 which includes at least element 64) having an upper, cargo-bearing surface (16); a first longitudinal beam (7b) mounted to said

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fuselage proximate to said outer skin and proximate to said upper, cargo-bearing surface, said first longitudinal beam extending, in a longitudinal direction of said aircraft, along a first side of a cargo compartment of said aircraft; and a second longitudinal beam (7b, on other side of aircraft, See Fig. 1, only one side is labeled) mounted to said fuselage proximate to said outer skin and proximate to said upper, cargo-bearing surface, said second longitudinal beam extending, in a longitudinal direction (X) of said aircraft, along a second side of said cargo compartment opposite said first side of said cargo compartment, wherein said cargo deck comprises at least one floor module (4a and 4b) having a first end and a second, opposite end (See Column 7, Lines 49-51, deck section has two ends). Additionally, with regard to claim 24, Vetillard et al. discloses a transverse support element that has a downward planar surface (16 and 64 each have downward planar surfaces), but does not disclose the floor module being mounted on top of the longitudinal beam. Bergholz teaches a cargo deck comprising a floor module (element 12 including additional elements 20 and 46 as shown in Fig 8), wherein the said floor module being mounted in said aircraft such that said first end rests on an upward-facing surface (surface of element 24 shown in Fig. 8) of said first longitudinal beam. At the time of invention, it would have been obvious to one of ordinary skill in the art to mount the floor module of Vetillard et al. on an upward facing surface as taught by Bergholz to the longitudinal beam of Vetillard et al. This is a simple matter of design choice since the module of Vetillard et al. could be mounted above or below the longitudinal beam (7b).

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13. With regard to claim 25, Vetillard et al. discloses the longitudinal beams (7b) being mounted to said fuselage (7) at a location that is proximate to an upper, cargo-bearing surface (16) of said at least one floor module (See Fig. 7).

Response to Arguments

14. Applicant's arguments filed 01/26/2009 have been fully considered but they are not persuasive. Applicant states that the floor plates of Bergholz are neither in physical contact with, nor supported by the stringer feature. However, the floor plates of Bergholz, similarly to Applicant's floor modules, when taken as a whole include additional elements. The claims do not preclude the rods (20 or 21 or 51) from mounting the floor modules (12) on the longitudinal beams (17 or 24), or the floor modules (12) as including the rods or tracks (18). Therefore, the floor modules (12) would be considered to be mounted directly on the beams (17).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian M. O'Hara whose telephone number is (571)270-5224. The examiner can normally be reached on Monday thru Friday 10am - 5pm except the first Friday of every Bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

/B. M. O./
Examiner, Art Unit 3644